

JUSTICE CHRONICLES

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U.S. Passport Fair

U.S. PASSPORT FAIR

Region Legal Service Office Southwest is pleased to announce the U.S. Department of State will conduct a passport fair at the Naval Base San Diego Navy Exchange, Building #3187A, 2260 Callagan Hwy, Bldg 3187-A, San Diego, CA 92136, on Saturday, 18 Feb 2012, from 1000 to 1500. This event is open to all U.S. citizen service members, their U.S. citizen dependents and DOD personnel with access to the base, and will enable our community to apply for or renew U.S. Passports. In addition, U.S. citizens can also apply for the new U.S. Passport Card at this event.

It is crucial to start preparing now for this event. Applicants must bring all necessary paperwork (e.g. proof of citizenship, passport photos, etc.). To determine what documentation is acceptable and required, visit www.travel.state.gov/passport.

Passport fees will apply. Checks or money orders will be accepted. Fees depend on the type of passport and are listed at www.travel.state.gov/passport.

This is a great opportunity to save time, effort, and receive your U.S. passport quickly without paying an expedite fee."

SELF-REPORTING REQUIREMENTS

The recent release of NAVADMIN 373/11 has generated considerable buzz (not to mention confusion) in the fleet. The main thrust of NAVADMIN 373/11 is that it revised the self-reporting requirement of OPNAVINST 3120.32C Standard Organization and Regulations Manual (SORM). This is a lawful punitive general order which applies to all Navy personnel.

**Self- Reporting
Requirement**

As revised by NAVADMIN 373/11, the SORM requires any Navy member who is arrested or criminally charged by civil authorities to self-report. However, the member is only required to report the date, the authority, and the offense for which they were arrested or charged. They are not required to disclose any of the underlying details of the arrest or charge. NAVADMIN 373/11 explicitly states: "DISCLOSURE OF ARREST/CRIMINAL CHARGES IS NOT AN ADMISSION OF GUILT AND MAY NOT BE USED AS SUCH, NOR IS IT INTENDED TO ELICIT AN ADMISSION FROM THE PERSON SELF-REPORTING. NO PERSON SUBJECT TO THE UCMJ MAY QUESTION A PERSON SELF-REPORTING AN ARREST/CRIMINAL CHARGES REGARDING ANY ASPECT OF THEIR SELF-REPORT UNLESS THEY FIRST ADVISE THE PERSON OF THEIR RIGHTS UNDER UCMJ ARTICLE 31(B)."

*NAVADMIN 373/11 clarifies that the CO may not take disciplinary action based solely on the self-report. The CO may take disciplinary action **only if** he/she has **independently derived** evidence. Generally speaking, independently derived evidence is either (1) evidence that the command obtained before the self-report or (2) evidence that the command would have obtained even if the member had never self-reported. For advice on specific cases, commands are encouraged to contact a Staff Judge Advocate in their chain of command or RLSO SW Command Services.*

CAC CARD PHOTOCOPYING PROHIBITED

Commander, Navy Installations Commands, recently issued an announcement reminding all personnel that the photocopying of military identification cards and common access cards (CAC) is strictly prohibited.

There have been recent incidents reported of commercial establishments photocopying U.S. government identification to verify military affiliation or provide government rates for service. These incidents are a violation of Title 18, U.S. Code, Part I, Chapter 33, Section 701 and are punishable by fine and/or imprisonment. Although commercial establishments may request to see military/government identification, they may not photocopy or duplicate it in any way. Many military personnel and commercial establishments are unaware of the prohibition and the reasons it exists, which results in this being a fairly common practice.

The only exception to this policy, covered in DOD Instruction 1000.13, Section 6.1.7, is that civilian and military medical providers are authorized to photocopy military ID as proof of insurance for the purposes of providing medical care to DoD beneficiaries.

Because of the access the cards grant, criminal elements and terrorist organizations place a premium on obtaining U.S. government identification cards when planning acts against the U.S. military. If a copied military or government identification fell into the wrong hands, it could truly prove disastrous.

Reprinted from http://www.navy.mil/search/display.asp?story_id=63581

**CAC Card Photocopying
Prohibited**

RESULTS OF TRIAL 4TH QUARTER 2011

Navy E-3 with 1 year, 7 months of service, sentenced to 3 months confinement and a bad conduct discharge for wrongful sexual contact, sodomy and aggravated assault. This court was held on 7 October 2011.

Navy E-5 with 8 years, 4 months of service, sentenced to 90 days confinement, forfeiture of \$1,000.00 pay per month for 4 months and reduction in rate to E-3, for unauthorized absence and missing movement. This court was held on 11 October 2011.

Navy E-2 with 4 years, 2 months of service, sentenced to 28 months confinement, reduction in rate to E-1, and a dishonorable discharge, for unauthorized absence, failure to obey a lawful general order, wrongful manufacture, possession, use and distribution of marijuana. This court was held on 12 October 2011.

Navy E-3 with 2 years, 1 month of service, sentenced to 4 months confinement, forfeiture of \$750.00 pay per month for 4 months, and reduction in rate to E-1, for larceny of government property and wrongful receipt of stolen government property. This court was held 8 November 2011.

Navy E-6 with 13 years, 4 months of service, sentenced to 18 months confinement, a fine of \$12,000.00 and a bad conduct discharge, for conspiracy to commit larceny, false official statements, wrongful disposal of government property, larceny of government property and obstruction of justice. This court was held on 18 November 2011.

Navy E-7 with 21 years, 2 months of service, sentenced to 5 months confinement, \$1,500.00 pay per month for 5 months, and reduction in rank to E-5 for violation of the Navy Sexual Harassment policy and wrongful sexual contact. This court was held on 30 November 2011.

Navy E-4 with 4 years, 7 months of service, sentenced to 140 days confinement, reduction in rate to E-1 and a bad conduct discharge for assault consummated by a battery. This court was held on 15 December 2011.

Navy E-2 with 1 year, 10 months of service, sentenced to 8 months confinement, forfeiture of \$900 pay per month for 8 months, and reduction in rate to E-1, for violation of a lawful general order, wrongful possession, use, introduction to an armed forces installation, and distribution of a Schedule III controlled substance, wrongfully distributing and possessing Human Growth Hormone (HGH) and concealing a material fact on a federal form. This court was held on 21 December 2011.

**Results of Trial 4th
Quarter 2011**

OFFICER BOARD OF INQUIRY RESULTS 4TH QUARTER 2011

Navy O-4 was ordered to show cause for retention due to misconduct and substandard performance of duty: failure to obey order or regulation, conduct unbecoming an officer and gentleman and failure to conform to prescribed standards of military department. Board members recommended separation with a General discharge characterization. The Board of Inquiry was held on 6 October 2011.

Navy O-5 was ordered to show cause for retention due to misconduct and substandard performance of duty: failure to obey order or regulation, failure to demonstrate acceptable qualities of leadership required of an officer in the member's grade and failure to conform to prescribed standards of military department. Board members recommended retention. The Board of Inquiry was held on 11 October 2011.

Navy O-5 was ordered to show cause for retention due to misconduct and substandard performance of duty: failure to obey order or regulation, conduct unbecoming an officer and gentleman, adultery and failure to demonstrate acceptable qualities of leadership required of an officer in the member's grade. Board members recommended retention. The Board of Inquiry was held on 20 October 2011.

**Officer Board of Inquiry
Results 4th Quarter 2011**

Navy O-4 was ordered to show cause for retention due to substandard performance of duty: failure to demonstrate acceptable qualities of leadership required of an officer in the member's grade and failure to properly discharge duties expected of members' grade and experience. Board members recommended retention. The Board of Inquiry was held on 27 October 2011.

Navy O-4 was ordered to show cause for retention due to misconduct and substandard performance of duty: conduct unbecoming an officer and failure to demonstrate acceptable qualities of leadership required of an officer in the member's grade. Board members recommended retention. The Board of Inquiry was held on 22 November 2011.

Navy O-3 was ordered to show cause for retention due to misconduct and substandard performance of duty: drunken or reckless operation of a vehicle, aircraft or vessel, conduct unbecoming an officer and failure to conform to prescribed standards of military department. Board members recommended separation from the Naval Service as an officer and to be reenlisted and transferred to the fleet reserve list in the enlisted pay grade of E-7. The Board of Inquiry was held on 5 December 2011.

VICTIM AND WITNESS ASSISTANCE PROGRAM

OPNAVINST 5800.7A requires every command to appoint a Victim Witness Assistance Coordinator (VWAC) in writing and ensure command personnel are educated on the rights of crime victims and witnesses. Please note that the VWAP program is a separate program from SAPR and FAP, with distinct requirements. RLSO SW provides monthly training for new VWACs.

Victim and Witness Assistance Program

Upcoming trainings:

Monday, 23 April 2012

Monday, 23 July 2012

Monday, 22 October 2012

Time: 1300

Location: Fleet and Family Support Center, NBSD, Bldg 259, Classroom 1

RSVP and/or Questions: Nya Ayala, (619) 556-0237, nya.ayala@navy.mil

WATERFRONT OUTREACH TRAINING

Come join us at our Monthly Legal Officer Brown Bag Lunch/Discussion!

Hosted by COMNAVSURFPAC Legal and RLSO SW Command Services

When: Monday, February 27, 1200-1300

Thursday, March 29, 1200-1300

Thursday, April 26, 1200-1300

Waterfront Outreach Training

Where: Naval Base San Diego (wet side), Waterfront Recreation Center (near Pier 2, across the street from the Base Theater). Blue and Gold Room.

What: The HOTTEST legal topics of the day!

Plus JAGS will be available to answer any and all legal questions. Tell us what issues you are facing so we can train on your specific topic. RSVP is appreciated but not required. Thank you for your support.

RSVP to LT Greg Young at ralph.g.young@navy.mil.

FREQUENTLY ASKED QUESTIONS

Can a civilian law enforcement agency repossess a vehicle located on a military installation?

Commanding Officers of military installations, in accordance with Judge Advocate General Manual Instruction 0616, can authorize service of civil and criminal process, subpoenas, repossession of personal property and warrants of Federal or State courts upon U. S. military personnel, their family members and civilians or contractors located within their commands. These processes are to be coordinated with the Region Legal Service Office Southwest in accordance with the above instructions. If you have any questions, please call your nearest office for assistance.

I had a Sailor (E-5) get arrested for DUI. His LPO (E-6) was in the vehicle with him. They had been drinking together at a local bar. Can I discipline the LPO for failing to prevent the E-5 from driving after he had been drinking?

Probably. Per paragraph 8n(4)(c) of OPNAVINST 5350.4C CH-4 (Subj: Drug and Alcohol Abuse Prevention and Control), shipmates are expected to stop their shipmates from driving while under the influence of alcohol. Hence, failure of a Sailor to prevent a shipmate from driving while intoxicated is also punishable at NJP as a violation of Article 92, UCMJ.

What's the worst that can happen if I use a government vehicle for unofficial purposes?

A: Civilian employees who convert public property (*i.e.*, government vehicle) to their own use may be prosecuted by the Attorney General under Title 18 United States Code Section 641. The mandatory minimum penalty for willful misuse of government vehicles is a 30-day suspension without compensation. This penalty has been upheld for simply stopping at a fast food restaurant when returning from a meeting when the employee knew such use was unauthorized. Depending on the circumstances, an employee may be suspended for longer than 30 days, or even have his/her employment terminated. Active duty personnel are subject to administrative and/or disciplinary action for wrongful use of a government vehicle. Such unauthorized use could lead to prosecution for failure to obey a lawful general regulation under the Joint Ethics Regulation, or for dereliction in the performance of duties or for wrongful appropriation in violation of Articles 92(1), 92(3) or 121 of the Uniform Code of Military Justice.



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Command Services LCPO: (619) 556-0839

Trial Department: (619) 556-9293

NB San Diego SJA: (619) 556-5533 – DSN 526

NB Coronado SJA: (619) 545-8143 – DSN 735

NB Point Loma SJA: (619) 553-7190 – DSN 553

CNRSW SJA: (619) 532-1418 – DSN 522

NAS Lemoore SJA: (559) 998-3889/3352 – DSN 949

NB Ventura SJA: (805) 989-1706/8929/8891 – DSN 351

NAS Fallon SJA: (775) 426-2854 – DSN 890

NAWS China Lake SJA: (760) 939-6065 – DSN 437

NSA Monterey SJA: (831) 656-2506 – DSN 756

TOPICS FOR FUTURE ISSUES

If you have a topic you'd like to see discussed in the next newsletter, please forward your request to Nya Ayala at nya.ayala@navy.mil.